

NTSB Order No.  
EM-157

UNITED STATES OF AMERICA  
NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D. C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D. C.  
on the 7th day of August, 1990

PAUL A. YOST, Commandant, United States Coast Guard,

v.

LEOPOLD KLATT, Appellant.

Docket ME-139

ORDER DISMISSING APPEAL

The Commandant has moved to dismiss the appeal filed in this proceeding on the ground that the Board lacks jurisdiction to review the order of admonition the appellant seeks to challenge here.<sup>1</sup> We will grant the motion.

In support of his motion to dismiss, the Commandant cites our decision in Commandant v. Leskine, NTSB Order No. EM-59 (1977), Commandant v. Schuiling, NTSB Order No. EM-109 (1984), and Commandant v. Lett, NTSB Order No. EM-153 (1989), all of which hold that the Board cannot entertain appeals from orders of admonition because they "are not listed among those [orders] that the Board in 49 U.S.C. §1903(a)(9)(b) is specifically authorized to review" (Lett at 2).

Appellant's answer in opposition to the motion to dismiss makes no effort to distinguish this case from those relied on by the Commandant. He nevertheless argues in effect that the Board must have jurisdiction to review admonitions because they, along with suspensions and revocations, are among the sanctions that are reviewable under the Coast Guard's regulations. We find no merit in the argument. The availability of review by the Commandant of

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<sup>1</sup>On January 30, 1989, a Coast Guard administrative law judge issued an order that admonished appellant for and alleged violation of law in connection with the discharge of oil from his vessel (the SS COVE LIBERTY) in navigable waters of the United States. the Vice Commandant (acting by delegation) issued a decision (Appeal No. 2498) on April 10, 1990 that affirmed the law judge's order.

a Coast Guard law judge's order of admonition has no bearing on our jurisdiction. The Coast Guard's regulations cannot create jurisdiction that the Board's statute has not conferred.

ACCORDINGLY, IT IS ORDERED THAT:

1. The motion to dismiss is granted, and
2. The appellant's appeal is dismissed.

KOLSTAD, Chairman, COUGHLIN, Vice Chairman, LAUBER and BURNETT, Members of the Board, concurred in the above order.